

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

ANTHONY NESBIT,)	CIVIL NO. 03-00455 SOM/KSC
)	(Consolidated)
Plaintiff,)	
)	
vs.)	ORDER REQUIRING SUPPLEMENTAL
)	MEMORANDUM
STATE OF HAWAII DEPARTMENT OF)	
PUBLIC SAFETY, et al.,)	
)	
Defendants.)	
_____)	
WILLIAM J. KOTIS,)	CIVIL NO. 04-00167 SOM/KSC
)	(Consolidated)
Plaintiff,)	
)	
vs.)	
)	
STATE OF HAWAII DEPARTMENT OF)	
PUBLIC SAFETY, et al.,)	
)	
Defendants.)	
_____)	

ORDER REQUIRING SUPPLEMENTAL MEMORANDUM

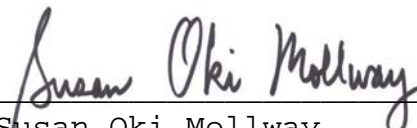
Defendants' Motion for Summary Judgment has been reset for hearing on **April 10, 2006, at 9:00 a.m.** The court hereby directs Defendants to file a supplemental memorandum of no more than 500 words and/or supplemental declaration addressing the discrepancies between the November 29, 2005 Monica Lortz Declaration of November 29, 2005, faxed to the court on November 30, 2005, with Defendants' Conference Letter Brief, and Monica Lortz's Declaration of December 5, 2005. Specifically, the court requires an explanation of the apparent difference between regarding Lortz's November 29, 2005, declaration that it was her

expectation that Plaintiffs would be assigned to a "'non-gang' quad," and her December 5, 2005, declaration that it was her expectation that Plaintiffs would "be assigned to a an [sic] appropriately safe cell in within [sic] Module C." (See Nov. 29, 2005 Lortz Dec. ¶¶ 3, 4; Dec. 5, 2005 Lortz Dec. ¶¶ 3, 4.) Defendants shall also address how Lortz's November 29, 2005 declaration might affect Plaintiffs' claims.

Defendants' Supplemental Memorandum shall be filed and served no later than **February 17, 2006**. Plaintiffs may file an Opposition, addressing Defendants' original Memorandum in Support of the Motion for Summary Judgment as well as the Supplemental Memorandum, on or before **March 23, 2006**, eighteen days before the hearing.

DATED: Honolulu, Hawaii; February 9, 2006.





Susan Oki Mollway
United States District Judge

NESBIT v. DEP'T OF PUBLIC SAFETY, et al., CIV. NO. 03-00455 SOM/KSC; KOTIS v. DEP'T OF PUBLIC SAFETY, et al., CIV. NO. 04-00167 SOM/KSC(consolidated cases); G:\docs\denisep\Non-Disp Ords 06\Nesbit&Kotis supp'l brief'g.wpd